BEST AVAILABLE IMAGES

Defective images within this document are accurate representations of the original documents submitted by the applicant.

Defects in the images may include (but are not limited to):

- BLACK BORDERS
- TEXT CUT OFF AT TOP, BOTTOM OR SIDES
- FADED TEXT
- ILLEGIBLE TEXT
- SKEWED/SLANTED IMAGES
- COLORED PHOTOS
- BLACK OR VERY BLACK AND WHITE DARK PHOTOS
- GRAY SCALE DOCUMENTS

IMAGES ARE BEST AVAILABLE COPY.

As rescanning documents *will not* correct images, please do not report the images to the Image Problem Mailbox.

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/036,578	11/07/2001	Prem Chandar	J6674(C)	4054

201 7590 09/24/2003

UNILEVER
PATENT DEPARTMENT
45 RIVER ROAD
EDGEWATER, NJ 07020

EXAMINER
BAHAR, MOJDEH

ART UNIT	PAPER NUMBER
1617	10

DATE MAILED: 09/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application N .	Applicant(s)	
	10/036,578	CHANDAR ET AL.	
	Examiner	Art Unit	
	Mojdeh Bahar	1617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *11 July 2003* .

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1,2,7,8 and 13-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1,2,7,8 and 13-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved by the Examiner.

If approved, corrected drawings are required in reply to this Office action.

12)☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____ .

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

14)☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).

a) ☐ The translation of the foreign language provisional application has been received.

15)☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) *8* .
4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: .

DETAILED ACTION

Applicant's response to the office action of April 9, 2003 and amendment submitted July 11, 2003 is acknowledged. Applicant's amendment is persuasive to remove the rejection under 35 USC 112 in the previous office action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-2 and 7-8, 13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Granger et al. (USPN 5,716,627).

Granger et al. (USPN 5,716,627) teaches a skin-conditioning composition comprising (a) from about 0.001% to about 10% of retinol or retinyl ester, (b) from about 0.0001% to about 50% azole (e.g., climbazole), (c) from 0.0001% to about 50% of LMEA and (d) a cosmetically acceptable vehicle, see claim 1 and col. 2, lines 31-40, see also examples 8 and 10. Granger also teaches the employment of azoles in an oil-in-water emulsion, see example 7 in col. 16. Granger

further teaches the employment of from about 0.5% to 50% emollients such as esters, fatty acids, alcohols, polyols and hydrocarbons, see col. 5, lines 20-26. Granger finally teaches the employment of imidazole compounds in its composition, see for example col. 6, lines 6-12.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ all of the above mentioned ingredients in a single composition.

One of ordinary skill in the art would have been motivated to employ all of the above mentioned ingredients in a single composition because Granger teaches a composition comprising retinol, LMEA and climbazole and alcohol. It further teaches all the other ingredients herein as optional ingredients in its skin oil-in-water emulsion composition. The skilled artisan would have been motivated to combine these ingredients because they are all known to be useful in skin care compositions.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over 1-2 and 7-8, 13 and 15 Granger et al. (USPN 5,716,627) as applied to claims 1-2 and 7-8, 13 and 15 above, and further in view of Granger et al. (WO 98/13020).

Granger et al. (USPN 5,716,627) does not teach the employment of alpha-ionone in its composition.

Granger et al (WO 98/13020) teaches a skin conditioning composition for topical application comprising from 0.001% to 10% of retinol or retinyl ester, from 0.0001% to 50% of a second ingredient such as, alpha ionone, and a cosmetically acceptable carrier, see page10, lines 17-18 and page 3 and page 35 table 7 for example. Granger also teaches optional ingredients such as linoleic acid, mono or di esters, fatty alcohols, polyols and hydrocarbon, see for example page 15-16.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ alpha-ionone in the skin care composition of Granger et al '627.

One of ordinary skill in the art would have been motivated to employ alpha-ionone in the skin care composition of Granger et al '627 because alpha-ionone is known to be useful (together with retinoids and the excipients herein) in skin care conditioning compositions.

Response to Arguments

Applicant's arguments filed July 11, 2003 have been fully considered but they are not persuasive. Applicant argues that the prior art of record does not teach the peroxide values herein. Note that the prior art teaches a composition comprising the same elements as those claimed herein in the same weight percentages. Further please note that a compound/composition and its properties are not mutually exclusive. A composition comprising same/overlapping amounts of the same ingredients will invariably possess the same characteristics, e.g., peroxide values.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mojdeh Bahar whose telephone number is (703) 305-1007. The examiner can normally be reached on (703) 305-1007 from 8:30 a.m. to 6:30 p.m. Monday, Tuesday, Thursday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sreeni Padmanabhan, can be reached on (703) 305-1877. The fax phone number for the organization where this application or proceeding is assigned is (703) 308-4556.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1235.

Mojdeh Bahar
Patent Examiner
September 15, 2003

SREENI PADMANABHAN
PRIMARY EXAMINER 9/22/03